

### **REMARKS**

This is meant to be a complete response to the Office Action mailed October 19, 2007. Claims 1 and 20 have been amended to clarify the language within these claims. Claims 2 and 4 have been amended to more explicitly claim variations of the present invention recited in amended claim 1. Claims 21, 22, and 30 have been amended to more explicitly claim variations of the present invention recited in amended claim 20. Applicant respectfully submits that the claims, as currently pending, are now in a condition for allowance.

### **Information Disclosure Statement**

In the Office Action dated October 19, 2007, the Examiner indicated that the information disclosure statement filed March 10, 2004 failed to comply with 37 C.F.R. 1.98(a)(1). Applicant respectfully submits that the information disclosure statement filed March 10, 2004 is in full compliance with the rules and statutes. Applicant is unsure of the Examiner's objection to the information disclosure statement. In the event that the Applicant has not fully complied with 37 C.F.R. 1.98(a)(1), Applicant will expediently correct any mistakes upon learning of specific deficiencies with the information disclosure statement.

### **Examiner's Claim Objections**

In the Office Action dated October 19, 2007, the Examiner objected to claims 1-4, stating that claim 1's transition should read "comprising steps of" rather than "comprising the steps of." Applicant has amended claim 1 in accordance with Examiner's suggestion. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the objections of claims 1-4.

### **Claim Rejections – 35 U.S.C. § 112**

In the Office Action mailed October 19, 2007, the Examiner rejected claims 1-4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as an invention. Specifically, the Examiner is concerned with the language in claim 1 reciting "...to at least one password corresponding to the password protecting the content file." In particular, the Examiner would like clarification as to the at least one password and whether the at least one password is different or the same as the password recited in claim 1's preamble. The Examiner further has issue with the language in claim 1 regarding "...automatically supplies..." stating that it is not clear where the at least one password supplies to.

Applicant has amended claim 1 to fully clarify the language of claim 1 and has cancelled claim 2. Applicant respectfully submits that claim 1, as amended, and claims 3-4 which depend therefrom, are now in a condition for allowance. Accordingly, Applicant urges the Examiner to reconsider and withdraw the 35 U.S.C. § 112 rejections of claims 1 and 3-4.

### **Claim Rejection – 35 U.S.C. § 101**

In the Office Action dated October 19, 2007, the Examiner rejected claims 1-4 and 20-30 under 35 U.S.C. § 101 stating that the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner believes that claims 1-4 do not result in a tangible result and are merely directed to an abstract idea. The Examiner also believes that claims 20-30 define a program/computer program/software embodying functional descriptive material, but the claims do not define a computer readable medium or memory and is thus non-statutory for that reason.

Applicant respectfully submits that the claims, as currently pending, are directed to statutory subject matter as mandated by 35 U.S.C. § 101.

With respect to claims 1-4, Applicant respectfully directs the Examiner's attention to § 2106, Roman Numeral IV.A of the *Manual of Patent Examining Procedure* (MPEP), which states that:

The subject matter courts have found to be outside of, or exceptions to, the four statutory categories of invention is limited to abstract ideas, laws of nature and natural phenomenon. While this is easily stated, determining whether an applicant is seeking to patent an abstract idea, a law of nature or a natural phenomenon has proven to be challenging. These three exclusions recognize that subject matter that is not a practical application or use of an idea, a law of nature or a natural phenomenon is not patentable.

Applicant submits that claim 1 recites a method that has a practical application and use, namely the steps associated with a method for distributing a password protected content file without revealing to a recipient a password that protects the password protected content file. As such, the method recited in claim 1, and claims 2-4 which depend therefrom, has a practical application and use and is therefore proper statutory subject matter as defined by 35 U.S.C. § 101.

With respect to claims 20-30, Applicant respectfully directs the Examiner's attention to § 2106.01 of the MPEP, which states:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

Independent claim 20 has been amended to specify that the password protected content file is stored on a computer readable medium. As such, and in accordance with both the Examiner's suggestions and §2106.01 of the

MPEP, Applicant respectfully submits that claims 20-30, as currently pending, are statutory subject matter under 35 U.S.C. § 101.

Accordingly, Applicant urges the Examiner to reconsider and withdraw the 35 U.S.C. § 101 rejections claims 1-4 and 20-30.

### **Claim Rejections—35 U.S.C. §102(b)**

In the Office Action dated October 19, 2007, the Examiner rejected claims 1-4 and 20-27 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,889,860 issued to Eller et al (hereinafter, "Eller"). Applicant, while not conceding on any of the issues addressed in the Office Action mailed October 19, 2007, have amended claims 1 and 20 to expedite the allowance of these claims which are directed to particularly commercially-valuable aspects of the invention.

Applicant's claim 1, as amended, recites a method for distributing a password protected content file without revealing to a recipient a password that protects the password protected content file. The currently recited method has two steps. First, the unlocking program is distributed to the recipient's computer. The unlocking program has access to at least one password corresponding to the password that protects the password protected content file. Second, the password protected content file is distributed to the recipient's computer. Upon activation of the password

protected content file, the unlocking program automatically supplies the at least one password to to an application program upon the application program loading the password protected content file wherein the at least one password is not revealed to the recipient. Most importantly, the at least one password is never revealed to the recipient during the unlocking process.

Claim 20, as amended, recites an unlocking program for unlocking a password protected content file stored on a computer readable medium and readable by an application program. The password protected content file is locked with at least one password. The unlocking program has access to at least one password corresponding to the at least one password protected content file. The unlocking program also has instructions to automatically supply the at least one password to the application program upon the application program loading the password protected content file. Again, the at least one password is never revealed to the recipient. Applicants respectfully submit that the Eller reference does not anticipate claims 1 or 20, as amended, or any of the claims that depend from these claims.

The Eller reference does not teach or claim every element present within Applicant's independent claims 1 or 20, as amended. Rather, the Eller reference teaches a method that includes:

Transmitting said password to the network client, wherein said password can be used to monitor distribution of said information item on a client-specific basis, wherein the step of transmitting said uniquely encrypted information portion to said client is prior to said step of transmitting said password. (emphasis added)

As indicated above, the Eller reference requires that the client receive and have knowledge of a password that decrypts an encrypted program. Moreover, and not present within Applicant's claims, the password received by the client includes an identifier that is unique to the client and which is capable of monitoring the distribution of an item on a client-specific basis. Thus, the client is able to send the encrypted program and the password to a third party. However, this forwarding activity can be monitored due to the client-specific information associated with each assigned password.

Applicant's claims 1 and 20, as amended, specifically require that the password never be revealed to the recipient. This ensures that the recipient is unable to forward the password protected content file to a third party and allow the third party to open/use the content file, as the recipient is never permitted to learn the password protecting the content file, i.e., if the recipient does not know the password, he cannot communicate it to a third party.

Accordingly, as the Eller reference does not teach every element of Applicant's claims 1 or 20, as amended, the Eller reference is not

appropriate prior art under 35 U.S.C. § 102(b). Applicant respectfully requests the Examiner to reconsider and withdraw her rejections under 35 U.S.C. § 102(b).

### **Claim Rejections—35 U.S.C. § 103(a)**

In the Office Action dated October 19, 2007, the Examiner rejected claims 28-30 under 35 U.S.C. § 103(a) as being unpatentable over the Eller reference in view of the Examiner's official notice. With respect to claim 28, the Examiner stated the following in support of her rejection:

As per claim 28, Eller et al. discloses a secured computer system in fig.1 and col. 4, lines 24-64. Eller et al. does not expressly disclose Task Manager program. However, the examiner takes official notice that Task Manager program is well known in the art and every computer has a task manager used to provide information about the processes and program running on a computer, as well as the general status of the computer. Since Eller et al. discloses a secured computer system has computers (servers and clients), it would have been obvious to a person with ordinary skill in the art that Task Manager program is included in the server and client computers of the Eller et al.'s since Task Manager program is well known in the art to provide information about the processes and programs running on a computer, as well as the general status of the computer.

Similarly, the Examiner states that claim 29 is rendered obvious because:

[The] Eller et al. discloses the access program is running from beginning to the end without interruption in fig. 6 and



in col. 6, line 61-col. 7, line 39. The examiner takes official notice that an instruction to prevent terminating of a program is common knowledge in the art. It would have been obvious to a person with ordinary skill in the art that there is an instruction to prevent termination of the access software since the access program is able to run from the beginning until the end without interruption with the presence of the task manager (as explained above in claim 28), which is capable of terminate programs.

Finally, the Examiner states that claim 30 is rendered obvious because:

Eller et al. discloses in col. 2, lines 26-30, "...for example, digital sheet music,...or other subject matter transmittable in digital form". Although Eller et al. does not expressly disclose pdf format, however, the examiner takes official notice that subject matter transmittable in digital form includes pdf format is well known in the art. It would have been obvious to a person with ordinary skill in the art that content file disclosed in Eller et al. includes pdf format since pdf format has been used in the art for over fifteen years and it is well known in the art that the pdf format content file can be digitally transmitted from any application on any computer system.

As discussed above in reference to the 35 U.S.C. § 102(b) rejections, claim 20, of which claims 28-30 depend, has been amended to clarify that the password protecting the content file is never revealed to the recipient. This is in stark contrast to the method recited in the Eller reference, which requires a step in which the password is transmitted to the network client, wherein the password is used to monitor distribution of information on a client-

specific basis. The goal of the Eller reference is to monitor the unauthorized transference of information by assigning a password to a network client that specifically identifies a particular client. Thus, if the client decides to send the information and password to an unauthorized third party, the Eller method allows monitoring of the unauthorized use as a result of the client-specific password. However, it is of critical importance to realize that the Eller method requires that the network client have access to and knowledge of the password to unlock the program. See Eller reference, Col. 2, Lines 14-35. In light of the amendments to claim 20, Applicant respectfully requests reconsideration and withdrawal of the rejections set forth above as applicable to claims 28-30.

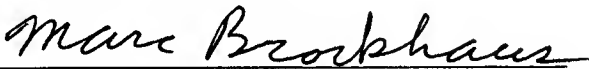
### **CONCLUSION**

This is meant to be a complete response to the Office Action mailed October 19, 2007. Applicants respectfully submit that each and every rejection has been overcome. Favorable action is respectfully solicited.

Should the Examiner have any questions regarding this Amendment,

or the remarks contained herein, Applicants' attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,



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